

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Expanding the Economic and Innovation)	Docket No. 12-268
Opportunities of Spectrum Through Incentive)	
Auctions)	

REPLY COMMENTS OF COMPETITIVE CARRIERS ASSOCIATION

March 12, 2013

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Competitive Carriers Association (“CCA”) hereby submits reply comments in response to the Notice of Proposed Rulemaking (“NPRM”) issued in the above-captioned proceeding.¹

INTRODUCTION AND SUMMARY

The opening comments reveal broad support for many of the proposals that CCA presented in its opening comments. Perhaps most importantly, there is a consensus among virtually all carriers—aside, unsurprisingly, from AT&T and Verizon—that the Commission’s incentive auction rules should be designed and implemented in a manner that gives carriers of all sizes a meaningful opportunity to acquire spectrum where needed. Although commenters may vary somewhat in the specifics of their proposals, virtually all carriers other than the two megacarriers support adoption of eligibility rules that will prevent excessive spectrum aggregation; bidding credits and related mechanisms that will promote participation by rural, mid-size and regional carriers; and transparent auction rules that give competitive carriers a fair opportunity to participate. In short, a broad array of commenters recognize that the incentive auction provides a rare opportunity to boost competition in the highly concentrated wireless

¹ *Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions*, Notice of Proposed Rulemaking, Docket No. 12-268 (rel. Oct. 2, 2012) (“NPRM”).

sector by giving competitive carriers a vital opportunity to acquire spectrum so that they can effectively compete with AT&T and Verizon.

Certain aspects of the NPRM's proposed band plan enjoy nearly unanimous approval. For example, commenters are united in emphasizing the importance of ensuring interoperability across the entire 600 MHz band; indeed, the success of the auction hinges on preventing the problems that have plagued the Lower 700 MHz band. In addition, there is agreement from virtually all carriers (including AT&T and Verizon) that the Commission should employ 5 MHz "building blocks" and should clear Channel 51 at the earliest opportunity, though CCA disagrees with the basis for that position. Commenters also largely agree on the use of smaller geographic units for wireless licenses, such as Economic Areas or smaller. The Commission should adopt these proposed rules, given their widespread endorsement.

A few carriers have raised specific concerns about the NPRM's lead proposed band plan, suggesting that the band plan could create potential interference and deployment challenges. In CCA's view, the Commission's paramount objective in developing the band plan should be to maximize the amount of paired, licensed spectrum that is made available to the wireless industry. Paired spectrum is particularly valuable for competitive carriers and new entrants that may be seeking to serve targeted areas, including rural and underserved communities. In light of the importance of maximizing paired spectrum, the Commission should resist making any sweeping changes to the band plan that would result in generating less paired spectrum. Indeed, the statute requires the guard bands "shall be no larger than is technically reasonable to prevent harmful interference" between licensed users. Such appropriately sized guard bands preserve finite spectrum for paired use. The Commission should carefully consider whether some or all of the concerns about the lead band plan proposal that have been raised can be mitigated or remediated

through industry efforts, with Commission guidance if necessary. At a minimum, the Commission should take the time to thoroughly consider and analyze the concerns that have been raised regarding potential interference and deployment issues before altering the band plan in any manner that would result in less paired spectrum being made available to the wireless industry.

DISCUSSION

I. THE RECORD STRONGLY SUPPORTS THE NEED TO IMPLEMENT AUCTION RULES THAT WILL ACTIVELY PROMOTE SUCCESSFUL PARTICIPATION BY COMPETITIVE CARRIERS

The record in this proceeding reveals widespread agreement with CCA's argument that the incentive auction rules should be designed and implemented in a manner that ensures that competitive carriers have a meaningful opportunity to participate. As U.S. Cellular notes, "the wireless market currently lacks healthy competition, and the level of competition has continued to decrease in recent years."² Because spectrum is such a critical input for wireless carriers, Leap Wireless correctly argues that "the need to promote the participation of a wide variety of carriers is especially acute."³ CCA therefore agrees with Sprint and others that "the Commission should establish a goal of maximizing the amount of spectrum that can be auctioned for commercial use by multiple competitors, ensuring that whatever band plan and service rules are adopted provide the opportunity for as many wireless operators as possible to obtain useful spectrum."⁴

The record confirms, consistent with the Commission's congressionally confirmed authority to "adopt and enforce rules . . . concerning spectrum aggregation that promote

² U.S. Cellular Comments at 3.

³ Leap Wireless Comments at 3.

⁴ Sprint Nextel Comments at 2.

competition,”⁵ that there are several specific steps that the Commission can take in its auction design rules to promote participation from competitive carriers. With the unsurprising exception of the Twin Bells, AT&T and Verizon, there is broad support in the record for the Commission to adopt neutral and objective, generally applicable eligibility rules that prevent the anticompetitive aggregation of spectrum.⁶ The Commission should promptly resolve its parallel mobile spectrum holdings proceeding so that it can apply a more accurate and meaningful spectrum screen to this auction proceeding. As CCA has argued, the revised screen should account for the unique propagation characteristics that make spectrum below 1 GHz particularly beneficial for competitive carriers,⁷ and thus it is especially crucial that Commission amend its screen so that it can apply a revised framework in establishing rules for auctioning 600 MHz spectrum.⁸ Therefore, CCA urges the Commission to modify its spectrum screen in that rulemaking proceeding so that any carrier who, subsequent to the forward auction, holds more than one-fourth of the total amount of suitable and available spectrum below 1 GHz in a given market would be subject to a rebuttable presumption that the carrier’s acquisitions above those amounts are contrary to the public interest.⁹

⁵ Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, § 6404, 126 Stat. 156, 230 (2012).

⁶ *See, e.g.*, Leap Wireless Comments at 7-8, T-Mobile Comments at 23-35, U.S. Cellular Comments at 30-34, Sprint Nextel Comments at 7-10, Cellular South Comments at 5-6; Free Press Comments at 14-15.

⁷ Comments of Competitive Carriers Association, WT Docket No. 12-269 (filed Nov. 28, 2012); Reply Comments of Competitive Carriers Association, WT Docket No. 12-269 (filed Jan. 7, 2013).

⁸ As the Commission notes in the NPRM, under its current spectrum aggregation policies the Commission applies its spectrum screen and undertakes a competitive analysis following spectrum auctions. NPRM ¶ 384.

⁹ CCA also included a proposal for a nationwide spectrum screen, somewhere between one-third and one-fourth of the total suitable and available spectrum in the aggregate.

AT&T and Verizon predictably argue that the Commission should put no limitations whatsoever on their ability to acquire as much spectrum as possible, regardless of the adverse competitive impact.¹⁰ Their arguments are starkly at odds with the Commission's previous findings. The Commission has been unable to conclude in its two most recent Wireless Competition Reports that the wireless industry is characterized by effective competition,¹¹ and the Mobile Spectrum Holdings NPRM correctly recognizes that the wireless marketplace has undergone significant consolidation,¹² virtually all of which has benefitted AT&T and Verizon vis-à-vis competitors. AT&T and Verizon argue that objective limits on spectrum aggregation somehow would reduce competition and reduce participation in the auction,¹³ but their arguments boil down to the misguided claim that, despite their existing dominant positions, they should be permitted to further entrench their market power over competitors and consumers, without constraint. In fact, AT&T and Verizon together currently hold more than seventy percent of all spectrum under 1 GHz.¹⁴ As they of course are aware, the Commission and Department of Justice blocked AT&T's attempt to acquire T-Mobile in large part because the

Assuming this proposal is adopted by the Commission, it too should apply to spectrum acquired in the 600 MHz forward auction.

¹⁰ See AT&T Comments at 79-80, Verizon Comments at 38-43.

¹¹ 14th Wireless Competition Report ¶ 3; 15th Wireless Competition Report ¶ 2.

¹² Mobile Spectrum Holdings NPRM ¶ 14.

¹³ AT&T Comments at 79-80; Verizon Comments at 40-41.

¹⁴ See generally Federal Communications Commission's Universal Licensing System; see also Sprint Comments at 2; T-Mobile Comments at 25-26 (noting that, "as of the Commission's 2011 report analyzing the competitive market conditions for mobile wireless services, Verizon Wireless and AT&T held a large majority of this spectrum: 67.20% of 700 MHz commercial spectrum, and 91.30% of cellular (850 MHz) spectrum" and that these figures did not include several significant proposed/closed acquisitions by AT&T since that time.

combined entity's spectrum holdings would severely hinder competition and harm consumers.¹⁵ The Commission therefore should focus on increasing competition by promoting participation in the auction, not on allowing AT&T and Verizon to increase their sub-1 GHz spectrum coffers and therefore their market power.

To be clear, CCA does not oppose AT&T and Verizon's participation in the incentive auction, and does not intend that any eligibility rules have the effect of excluding them altogether. To the contrary, broad participation coupled with an interoperability mandate will speed deployment of next-generation devices operating in the 600 MHz band to carriers and consumers across the country and maximize auction proceeds. Without Verizon or AT&T's participation, the market for devices will develop too slowly, if at all, at the expense of consumers nationwide. Nevertheless, every carrier's participation in the auction should be subject to neutral and objective competitive safeguards, as the Commission cannot ignore the anticompetitive effects of spectrum aggregation – *particularly* for critical spectrum below 1 GHz. The Commission therefore should promote the public interest by applying eligibility rules that give all carriers fair access to the critical input of spectrum, which Congress expressly contemplated by confirming the Commission's authority "to adopt and enforce rules of general applicability, including rules concerning spectrum aggregation that promote competition."¹⁶

Moreover, recent developments in international auctions do not support AT&T and Verizon's siren songs of the perils of ensuring a competitive auction. For example, in the recent Dutch auction of 800 and 900 MHz spectrum, to create a more competitive auction, the Ministry

¹⁵ See *Applications of AT&T Inc. and Deutsche Telekom AG for Consent to Assign or Transfer Control of Licenses and Authorizations*, Staff Analysis and Findings, 26 FCC Rcd 16184 ¶¶ 42-47 (WTB 2011); Amended Complaint, *United States of America v. AT&T Inc., et al.*, Case No. 1:11-01560, ¶¶ 35, 45 (D.D.C. Sept. 16, 2011).

¹⁶ Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, § 6404, 126 Stat. 156, 230 (2012).

of Economic Affairs (the regulating authority for Dutch spectrum) established set-asides for low-band spectrum in recent auctions. More specifically, the Ministry of Economic Affairs crafted rules for the set-aside of (a) two 5 MHz paired spectrum blocks in the 800 MHz spectrum being auctioned and (b) one 5 MHz paired spectrum block in the 900 MHz spectrum being auctioned for “newcomers,” or applicants who were not license holders as of July 16, 2012 of one or more licenses for frequencies within 880-915 MHz and 925-960 MHz, or part of a group of which one or more members was a license holder for those frequencies.¹⁷ Rather than depressing auction revenue, the auction raised far more funds than initially projected.¹⁸ Particularly of note, this practice was in stark contrast to the Dutch spectrum auctions in 2000, in which the Dutch government rejected mechanisms to prevent the entrenched incumbents from aggregating all available licenses.¹⁹ As a result, the Dutch auction in 2000 failed to attract widespread participation. Labeled a “disaster” by one prominent auction economist, the auction raised a mere \$2.5 billion instead of the \$8.5 billion that Dutch government had forecast.²⁰ This should serve as further evidence that, even without weighing the important policy effects spectrum

¹⁷ Dutch Ministry of Economic Affairs, *Regulation Regarding the Application and Auction Procedure for 800, 900 and 1800 MHz Licenses* 1, 2-6, 83 (Complimentary English translation, July 10, 2012), www.agentschaptetelecom.nl/onderwerpen/mobiele-communicatie/Multibandveiling (click on “courtesy-translation-auction-rules” under the “Downloads” menu on the right side of the page).

¹⁸ Maarten van Tartwijk, *Netherlands Raises €3.8 Billion from 4G Spectrum Auction*, Total Telecom (Dec. 17, 2012), <http://www.totaltele.com/view.aspx?ID=478411>.

¹⁹ *The price is right*, The Economist (July 27, 2000), <http://www.economist.com/node/340821> (“One simple rule for the auctions is that there should be more licenses than existing operators. The British heeded this, and reserved the biggest slice of spectrum for a new entrant. Sadly, the Dutch did not. Their five licenses were snapped up cheaply by the five incumbents.”)

²⁰ Ken Binmore and Paul Klemperer, *The Biggest Auction Ever: The Sale of the British 3G Telecom Licenses*, at C93 (March 2012), <http://www.nuff.ox.ac.uk/users/klemperer/biggestpaper.pdf>

aggregation rules have on fostering competition,²¹ these rules complement (rather than discourage) financially successful auctions.

The record also supports CCA's argument that the Commission can promote a more competitive playing field by employing bidding credits. Although commenters vary in the specifics of their proposals, many commenters agree that bidding credits will facilitate the ability of competitive carriers to participate in the forward auction.²² Particularly in today's highly concentrated marketplace, bidding credits will give rural, mid-size, and regional carriers a more meaningful opportunity to bid on spectrum and can help promote the deployment of advanced wireless services in the 600 MHz band to rural and other unserved or underserved communities. The Commission should be vigilant, however, to protect against sham arrangements created to benefit the two largest carriers.

Many rural, mid-size, and regional carriers also agree with CCA that blind bidding procedures would favor the largest carriers at the expense of smaller ones. As MetroPCS explains, "open bidding allows participants to engage in meaningful price discovery," and gives potential bidders important information so that they can "make an intelligent valuation decision."²³ Leap Wireless further notes that, "because small, midsize, and regional carriers rely on roaming arrangements and device ecosystems largely controlled by their larger competitors, they have a particular need to evaluate the bids of such competitors, including bids in adjacent

²¹ See, e.g., Press Release, Ofcom, Ofcom Announces Winners of the 4G Mobile Auction (Feb. 20, 2013), <http://media.ofcom.org.uk/2013/02/20/ofcom-announces-winners-of-the-4g-mobile-auction/> (noting that the recent auction of 800 MHz and 2.6 GHz spectrum in the UK "achieved Ofcom's [the UK regulator's] purpose of promoting strong competition in the 4G mobile market.").

²² See Leap Wireless Comments at 6; MetroPCS Comments at 26-27; Cellular South Comments at 5, n.11; RTG Comments at 8.

²³ MetroPCS Comments at 11.

markets, to accurately assess the value of particular licenses.”²⁴ CCA discouraged the Commission from adopting blind bidding procedures in Auction 73 for similar reasons, arguing that smaller providers would be negatively impacted if unable to anticipate the availability of roaming agreements with leading bidders in nearby license areas.²⁵ The Commission accordingly should employ an open and transparent bidding process in lieu of blind bidding. If, however, the Commission chooses not to adopt open bidding rules, it should at a minimum consider T-Mobile’s proposal to assign channel blocks through a quasi-random assignment process.²⁶ Quasi-random channel assignments could help to alleviate interoperability concerns,²⁷ but could also potentially increase auction revenues.²⁸

Commenters likewise express significant concerns about combinatorial or package bidding procedures. As U.S. Cellular recognizes, “combinatorial bidding adds yet another layer of complexity to an auction,” and would disadvantage small, rural and regional carriers.²⁹ Leap Wireless, RTG, and others correctly argue that combinatorial bidding can enable larger carriers to acquire a particular license at sub-optimal valuation by packaging it with other licenses, which not only would generate lower auction proceeds, but also would risk excluding smaller carriers that would place a higher valuation on the license.³⁰ Because combinatorial bidding

²⁴ Leap Wireless Comments at 8.

²⁵ See Comments of Rural Cellular Association, WT Docket No. 06-150 at 18 (filed May 23, 2007).

²⁶ T-Mobile Comments at 21-23.

²⁷ To be clear, whatever the practical effects of a quasi-random assignment process may or may not be, CCA still insists that the Commission mandate interoperability in the 600 MHz Band. See *infra* at 10-12.

²⁸ T-Mobile Comments at 22.

²⁹ U.S. Cellular Comments at 51-53.

³⁰ See Leap Wireless Comments at 9, RTG Comments at 9.

“substantially benefits the largest carriers over smaller competitive carriers and allows them to skew outcomes with superior purchasing power,” the Commission should reject such procedures.³¹ While Section 6403 of the Middle Class Tax Relief and Job Creation Act of 2012 (the “Spectrum Act”) requires the FCC to ensure sufficient proceeds from the forward auction, the Spectrum Act also permits the FCC to design the forward auction “assigning licenses that cover geographic areas of a variety of different sizes.”³² This clear intent to support participation by smaller competitive carriers could be unduly compromised through combinatorial or package bidding, discouraging participation and reducing forward auction revenues.

Overall, the record contains powerful support for the notion that the Commission’s auction rules should be designed to promote participation by a wide array of wireless providers. The Commission should carefully examine each aspect of its auction design to ensure that its rules do not favor the largest carriers at the expense of smaller ones.

II. THE 600 MHZ BAND PLAN SHOULD MAXIMIZE THE AVAILABILITY OF PAIRED, LICENSED SPECTRUM AND PROMOTE COMPETITION

The Commission’s band plan for the 600 MHz band also can have significant impact on competitiveness in the band, and the Commission therefore should ensure that its band plan creates a level playing field. The opening comments reveal broad consensus on certain critical aspects of the band plan.

In particular, there is strong agreement that the Commission must ensure interoperability across the 600 MHz band.³³ The NPRM appropriately established the goal of “encouraging

³¹ MetroPCS Comments at 13.

³² Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, § 6403, 126 Stat. 156, 230 (2012).

³³ *See, e.g.*, Leap Wireless Comments at 7; MetroPCS Comments at 28; U.S. Cellular Comments at 23-30; T-Mobile Comments at 21; Cellular South Comments at 7-8; Sprint

interoperability,”³⁴ but in light of the concentration of licenses in the 850 MHz Cellular band and pervasive problems that have arisen in the non-interoperable Lower 700 MHz band, the Commission should go beyond mere encouragement and *ensure* full interoperability across the 600 MHz band. Over the last decade, AT&T and Verizon have come to hold a vast majority of licenses for 850 MHz Cellular spectrum.³⁵ Due to the divergence of 3G technologies between GSM/UTMS and CDMA, competitive carriers have been left with limited choice in roaming partners to operate within this band throughout most of the United States. Auction of the 700 MHz spectrum in 2008 resulted in a more diverse group of licensees, but subsequent bifurcation of the Lower 700 MHz into two band classes stifled rural and regional providers’ access to devices based on economies of scope and scale. This in turn has frustrated competitive carriers’ efforts to fully deploy services throughout the Lower 700 MHz Band.

As T-Mobile notes, interoperability promotes consumer choice and stimulates competition by enhancing economies of scale, expanding roaming opportunities, and increasing deployment of next-generation wireless services across the country, especially in rural areas.³⁶ The widespread availability of devices will be critical to effective deployment in the 600 MHz band, and such device availability depends on interoperability across the band. The Commission therefore should establish a clear, *ex ante* rule requiring that all devices operating in the 600 MHz band be capable of operating across the entire band. Doing so will help ensure that this

Nextel Comments at 17; National Telecommunications Cooperative Association Comments at 2-3.

³⁴ NPRM ¶ 162.

³⁵ Attached hereto as Exhibits “A” and “B” are maps demonstrating the concentration of licenses in the hands of AT&T and Verizon in the 800 MHz and 700 MHz bands, respectively.

³⁶ T-Mobile Comments at 21.

valuable national resource is put to its highest and best use and will prevent one or two incumbents from inappropriately wielding their market power to the detriment of competition.

There also is broad consensus, including from AT&T and Verizon, that 5 MHz building blocks, paired wherever possible, are an optimal license size.³⁷ While some carriers suggest that Economic Areas (“EAs”) would be an effective geographic unit,³⁸ others argue that the Commission should consider smaller areas (for at least some licenses).³⁹ While the Commission should explore these various options for geographic units,⁴⁰ the majority of commenters agree that the Commission should not endorse any geographic license size *larger* than an EA, to ensure that smaller carriers have meaningful opportunities to participate. As CCA discussed in its opening comments, another option would be to consider matching wireless licenses to existing broadcast Designated Market Areas (DMAs). Such an approach would simplify auction procedures by aligning the geographic areas of the forward and reverse auctions. The Commission could further disaggregate DMAs into county blocks to allow for more granular bidding and to enable carriers to target service areas of different population densities.

In addition to block and geographic license sizes, many carriers also agree that guard bands should be small enough to maximize the amount of paired, licensed spectrum. CCA

³⁷ See Verizon Comments at 15; AT&T Comments at 3; T-Mobile Comments at 14, Cellular South Comments at 6; MetroPCS Comments at 19; Leap Wireless Comments at 5.

³⁸ Leap Wireless Comments at 4-5; MetroPCS Comments at 18; Cellular South Comments at 7-8; Verizon Comments at 60; AT&T Comments at 54.

³⁹ Leap Wireless Comments at 4-5; U.S. Cellular Comments at 10-13; National Telecommunications Cooperative Association Comments at 3-5; Wireless Internet Service Providers Association Comments at 30-32.

⁴⁰ Indeed, Section 6403(c)(3) of the Spectrum Act *requires* the Commission to consider assigning licenses that cover variously-sized geographic areas. See Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, § 6403, 126 Stat. 156, 230 (2012) (“In conducting the forward auction . . . the Commission shall consider assigning licenses that cover geographic areas of a variety of different sizes.”).

believes that Congress's mandate that guard bands be "no larger than technically reasonable" requires the Commission to limit the size of guard bands to only so many megahertz as, in its prudent judgment, are required to prevent harmful interference.⁴¹

Size of the guard band depends on the type of digital television (DTV) station located within the license area. In the first instance, a baseline guard band of 6 MHz may be a reasonable upper bound near full service DTV stations located within a city. However, many DTV stations are located on remote mountaintops or other areas equally inaccessible to typical wireless customers. In this second case, size of the guard band from such a DTV location may be correspondingly less given the much greater propagation loss to the potential wireless coverage area. Preliminary technical studies commissioned by CCA show that a 3 MHz guard band is more than sufficient to protect LTE receivers in geographic areas where the full service DTV broadcast station is located in a remote area. Finally, license areas where the neighboring DTV channel is used for low-power television (LPTV) transmissions will not require a guard band from the UE receiver, and only a 3 MHz guard band from the base station.⁴²

MetroPCS has also argued in favor of 3 MHz guard bands.⁴³ Moreover, the Commission has proposed to add "remainder" spectrum to the guard bands, which further supports smaller initial guard bands.⁴⁴ Assuming the Commission adopts its proposal to license the repurposed

⁴¹ NPRM ¶¶ 156, 158.

⁴² LPTV stations will undergo the digital transition by September 1, 2015, with a resulting limit on effective radiated power (ERP) of 15 kW for UHF channels (*see* FCC Consumer Guide for Low Power Television). The LPTV ERP limit is only 4 dB stronger than the 600 MHz base station ERP of 1000 W/MHz. Since LPTV transmitters are generally mounted on tall towers to maximize coverage range, the ground-level signals from LPTV stations will be similar to those from base station transmitters, and not interfere with UE reception in an adjacent channel.

⁴³ MetroPCS Comments at 24-25.

⁴⁴ NPRM ¶¶ 156, 158.

spectrum in 5 MHz blocks, the initial size of the guard bands could affect how much spectrum is ultimately made available in the forward auction. For example, if six broadcasters in a market release their spectrum in the reverse auction (18+18 MHz), and a 6 MHz guard band were adopted for each link, this would only produce two 5+5 MHz blocks for auction (and an 8 MHz guard band per link). If, on the other hand, the Commission employed only a “technically reasonable” 3 MHz guard band under the same circumstances, *three* 5+5 MHz blocks would be freed for auction. A 3 MHz guard band in the circumstances identified above fulfills Congress’s directive that guard bands be no larger than technically reasonable, increases the amount of available spectrum for competitive carriers and will lead to increased auction revenues to the benefit of the national treasury.

Carriers also are united in their call for the Commission to clear Channel 51 expeditiously. Verizon urges a number of steps that the Commission can take to clear Channel 51, some of which can be done prior to the auction,⁴⁵ and AT&T correctly recognizes that “*any* sound band plan ... would provide for repacking of Channel 51 TV stations whether Channel 51 is designated for mobile broadband uses or not.”⁴⁶ CCA agrees with Leap Wireless that the most effective way to guarantee the clearing of Channel 51 is to implement an auction rule that the very first spectrum to be licensed in a market include Channel 51, so that there is no possibility that the auction will not have the effect of clearing Channel 51 nationwide.⁴⁷

CCA (along with others) have raised concerns regarding the need for strong build-out requirements, which help to prevent aggregation or spectrum warehousing.⁴⁸ CCA supports the

⁴⁵ Verizon Comments at 37-38.

⁴⁶ AT&T Comments at 36-37.

⁴⁷ See Leap Wireless Comments at 10-12.

⁴⁸ See, e.g., National Telecommunications Cooperative Association Comments at 5-6.

Commission's proposal to adopt strong build-out requirements according to the percentage of population served within the license area,⁴⁹ but also agrees with the support found in the record for geographic-based build-out requirements (particularly in less dense areas, which benefits rural consumers).⁵⁰

Finally, several commenters have expressed concern that the NPRM's lead band plan may cause interference concerns or implementation challenges.⁵¹ In CCA's view, the Commission should carefully investigate those issues, while keeping in mind that its primary goal should be to maximize the amount of paired, licensed spectrum that can be made available to wireless carriers through the incentive auction. Because of the importance of maximizing paired spectrum, the Commission should be reluctant to alter the band plan in any manner that would reduce the amount of paired spectrum that is available for mobile broadband services.⁵² Although the Commission should rigorously evaluate concerns that the lead band plan may cause interference and require unduly large antennas, the Commission should take the time to determine if such concerns can be mitigated through industry efforts, if necessary with Commission guidance, to ensure that the auction generates as much paired, licensed spectrum as possible.

⁴⁹ NPRM ¶ 397.

⁵⁰ Cellular South Comments at 9-10.

⁵¹ *See, e.g.*, T-Mobile Comments at 8-9; AT&T Comments at 23-30, Verizon Comments at 8-14.

⁵² While most carriers seemingly plan to employ FDD technologies, the Commission should not foreclose consideration of bi-directional spectrum for TDD use in the 600 MHz band as well.

III. THE COMMISSION CAN TAKE COMMON SENSE STEPS TO INCREASE BROADCASTER PARTICIPATION IN THE REVERSE AUCTION

In addition to adopting competitive auction rules and a functional band plan, there are several policies and incentives the Commission should consider to maximize broadcasters' interest and participation in the reverse auction. Specifically, the Commission should ensure transparency in terms of broadcasters' recoverable costs and auction implementation timeframes, the confidentiality of broadcasters' identities and bids, and informed participation through the utilization of more than one mock auction.

Commenters generally agree that transparent, easy to understand rules and structure will promote broadcaster participation. As Sprint notes, “[g]aining the trust and support of broadcasters is a prerequisite to the ultimate success of the entire incentive auctions process.”⁵³ Broadcasters therefore should have concrete information about what relocation expenses will and won’t be reimbursed, so that they can make informed decisions about whether or not to participate in the reverse auction.⁵⁴ CCA also agrees that the methodology behind scoring mechanisms affecting repacking should be clearly set out and available to broadcasters early in the process.⁵⁵ CCA applauds the Commission’s continued efforts to assist broadcasters in making informed decisions about participating in the reverse auction through the use of webinars and other educational sessions.⁵⁶

⁵³ Sprint Comments at 5.

⁵⁴ Sprint Comments at 11.

⁵⁵ LIN Television Corporation d/b/a LIN Media Comments at 2.

⁵⁶ NPRM ¶ 36; Federal Communications Commission, Broadcaster LEARN Program Workshop (Oct. 26, 2012), <http://wireless.fcc.gov/learn/LEARN-Deck-12-5-12.pdf>; Federal Communications Commission, Incentive Auctions - LEARN - A Groundbreaking Event for the Broadcast Television, Mobile Wireless, and Technology Sectors of the U.S. Economy, <http://wireless.fcc.gov/incentiveauctions/learn-program/index.html>.

There is also support in the record for keeping broadcasters' identities and bids confidential.⁵⁷ Participation in the reverse auction, as well as information such as bid selection and bid valuation, is competitively sensitive information.⁵⁸ For example, confidentiality is necessary for broadcasters to maintain continuity of service, who (should their bids be accepted) "will need to develop plans for managing, or likely terminating, existing long-term relationships with employees, advertisers, programmers, landlords, and others with whom they have dealt over the years to facilitate daily operations."⁵⁹ Therefore the Commission should take steps to protect the identities of reverse auction bidders and their bid amounts, both during and after the incentive auction.

Finally, CCA agrees with T-Mobile that one mock auction may not provide adequate insight to all relevant stakeholders, given the complexity involved in the forward and reverse auction process.⁶⁰ The Commission should consider conducting at least two mock auctions, while at the same time avoiding unnecessarily delay.⁶¹

⁵⁷ See, e.g., Verizon Comments at 29; Comments of Tribune Company at 6-7.

⁵⁸ Verizon Comments at 29.

⁵⁹ Tribune Comments at 7.

⁶⁰ T-Mobile Comments at 58-60.

⁶¹ *Id.*

CONCLUSION

CCA looks forward to working with the Commission to create an auction process that ensures the participation of a broad array of carriers, generates significant licensed spectrum that the wireless industry critically needs, and promotes a competitive playing field.

Respectfully submitted

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